

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rule  
Amendments to Minnesota Rules Chapter  
7020, Governing Ainal Feedlots; Chapter  
7001, Governing Permits and Certifications;  
and Chapter 7002, Governing Permit Fees

**ORDER ON REVIEW OF DUAL  
NOTICE AND ADDITIONAL  
NOTICE PLAN UNDER  
MINNESOTA RULES 1400.2060  
AND 1400.2080**

This matter came before Administrative Law Judge Ann O'Reilly upon a request from the Minnesota Pollution Control Agency (MPCA) for review of its Dual Notice and Additional Notice Plan. The MPCA seeks a legal review of its materials under Minn. Stat. § 14.131, Minn. R. 1400.2060, subp. 2, and Minn. R. 1400.2080, subp. 2.

Based upon a review of the written submissions and filings made on June 21, 2013,

**IT IS HEREBY ORDERED THAT:**

1. The Dual Notice is **APPROVED**.
2. The Additional Notice Plan is **APPROVED**, contingent upon sending the following groups either a paper or electronic copy of the Dual Notice:

Association of Minnesota Counties  
Jeff Spartz, Executive Director  
125 Charles Ave  
St Paul, MN 55103-2108

Association of Metropolitan Municipalities  
Patricia Nauman, Executive Director  
145 University Ave W  
St Paul, MN 55103-2044

League of Minnesota Cities  
James F Miller, Executive Director  
145 University Ave W  
St Paul, MN 55103-2044

Minnesota Association of Townships  
Gary L Pedersen, Executive Director  
P.O. Box 267  
805 Central Ave E  
St Michael, MN 55376

Dated: June 26, 2013

s/Ann O'Reilly  
ANN O'REILLY  
Administrative Law Judge

### MEMORANDUM

The Statement of Need and Reasonableness (SONAR) provides that the MPCA has the authority to delegate certain aspects of the state feedlot permitting program to counties that wish to regulate feedlots.<sup>1</sup> According to the SONAR, currently 54 Minnesota counties regulate feedlots.<sup>2</sup> While the proposed rules will not require counties or other local units of government to adopt or amend their ordinances or regulations, Minnesota counties and other smaller units of government that do regulate feedlots locally have an interest in this rulemaking process and the rules that are developed.

Pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22, subd. 1, the agency “*shall make* reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule” being proposed at both the hearing and notice of proposed adoption stages of the rulemaking process. (Emphasis added). These statutes impose an affirmative duty upon the agency to reach out to specific groups of potentially interested parties, especially when such groups are readily ascertainable and discrete.

Because the proposed rule changes may impact rules and regulations enforced by counties and other local units of government, the MPCA should include in its additional notice plan efforts directed at local government units, such as the Association of Minnesota Counties, the League of Minnesota Cities, the Association of Metropolitan Municipalities, and the Association of Townships. In this way, the agency can best meet its statutory obligation to make reasonable efforts to notify identifiable classes of persons who may be affected by the proposed rule changes.

**A. C. O.**

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<sup>1</sup> Statement of Need and Reasonableness (SONAR), pgs. 3, 15-16.

<sup>2</sup> *Id.* at p. 3.